

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE AUDUBON SOCIETY, et al.,

Plaintiffs,

v.

DOUG SUTHERLAND, et al.,

Defendants.

No. C06-1608MJP

ORDER REGARDING
WEYERHAEUSER'S MOTION IN
LIMINE TO PRECLUDE
EVIDENCE REGARDING
ALTERNATIVE DEFINITIONS OF
SUITABLE HABITAT

This matter comes before the Court on Weyerhaeuser's motion *in limine* to exclude evidence and/or argument at the preliminary injunction hearing related to an "alternative" definition of "suitable habitat." (Dkt. No. 157.) Weyerhaeuser requests that the Court preclude Plaintiffs from submitting evidence or argument at the preliminary injunction hearing (a) purporting to adopt definition(s) of "suitable habitat" for northern spotted owls other than the one in the Forest Practice Rules, WAC 222-16-085; or (b) purporting to show that any particular stand or part of a stand of forest qualifies as "suitable habitat," even if it does not meet the requirements of WAC 222-16-085, based on some other definition of "suitable habitat." Audubon opposes the motion. (Dkt. No. 179.)

The motion is DENIED without prejudice. Defendants may make these objections at the preliminary injunction hearing if and when Plaintiffs attempt to introduce evidence or argument related to these issues.

1 The clerk is instructed to distribute copies of this order to all counsel of record.

2 Dated: June 13th, 2007.

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4 Marsha J. Pechman
5 United States District Judge
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